

EXHIBIT 23

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re

BERNARD L MADOFF	Adv. Pro. No.
INVESTMENT SECURITIES LLC,	08-01789 (BRL)
Debtor.	

IRVING H. PICARD, Trustee
for the Liquidation of
Bernard L. Madoff Investment
Securities LLC,

Plaintiff,

Adv. Pro. No.
09-1182 (BRL)

V.

J. EZRA MERKIN, GABRIEL CAPITAL,
L.P., ARIEL FUND LTD., ASCOT
PARTNERS, L.P., GABRIEL CAPITAL
CORPORATION,

Defendants.

October 11, 2012
10:05 a.m.

VIDEOTAPED DEPOSITION of DANIEL HESS,
a Witness on behalf of Defendants, taken by
Plaintiffs, held at the Law Office of Gregory P.
Joseph, 485 Lexington Avenue, New York, New York,
before Eileen Mulvenna, CSR/RMR/CRR, Certified
Shorthand Reporter, Registered Merit Reporter,
Certified Realtime Reporter and Notary Public of
the State of New York.

1 accountants?

2 A. I believe so.

3 Q. Would it be accurate to say it was
4 more of an accounting exercise than due
5 diligence?

6 A. Correct.

7 MS. MOON: Objection.

8 BY MR. KITCHEN:

9 Q. Mr. Hess, can you identify for me
10 every discussion that you recall ever hearing
11 relating to Mr. Madoff or BLMIS?

12 A. I mean, specifically, no.

13 Q. Are there any --

14 A. I guess throughout the years, you
15 know, some stories may have manifested, but I
16 really recall no -- you know, I do recall money
17 going to him and that being money we didn't have.
18 Specific conversations about him, I really -- I
19 really don't recall. It was a long time ago.

20 Q. I believe in -- earlier this morning
21 in your testimony, you referred to one discussion
22 you recall in the early '90s. Do you remember
23 any such discussion regarding Mr. Madoff?

24 A. Specifically, no.

25 Q. As to general discussions, do you

1 remember any discussions about Mr. Madoff's
2 reputation?

3 A. Not really. Again, prior to the
4 Ponzi scheme becoming public, I think he had a
5 good reputation.

6 Q. And that's actually a good point. I
7 should clarify. I'm asking about your knowledge
8 prior to his confession.

9 A. I think it was -- I believe it was
10 fine.

11 Q. Do you recall there being any
12 discussions within any of the staff at GCC
13 regarding the consistency of Mr. Madoff's
14 returns?

15 A. We did not, no.

16 Q. Any discussions about the fact that
17 he self-custodied the assets entrusted to him?

18 A. No.

19 Q. Any discussions about undue secrecy
20 within his organization?

21 A. No.

22 Q. Any discussions about any concerns
23 at all about Mr. Madoff?

24 A. Not really.

25 Q. Do you recall any discussions with